

REMARKS/ARGUMENTS

Claims 1-5 and 7-39 are pending in this application. Claim 6 is cancelled herein without prejudice and subject matter of which is incorporated into claim 1. Claims 40-53 are cancelled without prejudice from the present application. For the reasons set forth below, Applicants respectfully submit that all pending claims are allowable.

I. Nonelected claims 40-53

Claims 40-53 are cancelled herein from the present application in view of the prior restriction requirement and subsequent election of claim 1-39 for further prosecution in the present application. Applicants expressly reserve the right to pursue the cancelled claims 40-53 in a divisional application.

II. Anticipation Rejections

Claims 1, 2, 6-22, 38 and 39 are rejected as anticipated by US Patent No. 5,711,861 (Ward). See Office Action, p.2. Furthermore, claims 1-39 are rejected as anticipated by US Patent No. 6,088,608 (Shulman). See Office Action, p.3.

Claim 1 is now directed to a combination including a sensor configured to detect one or more glucose levels, a transmitter operatively coupled to the sensor, the transmitter configured to receive the detected one or more glucose levels, the transmitter further configured to transmit signals corresponding to the detected one or more glucose levels, and a receiver operatively coupled to the transmitter configured to receive transmitted signals corresponding to the detected one or more glucose levels, where the transmitter is configured to transmit three data points per minute to the receiver, said three data points corresponding to the detected one or more glucose levels.

Independent claim 21 is directed to a combination including a sensor configured to detect one or more glucose levels, a transmitter operatively coupled to the sensor, the transmitter configured to receive the detected one or more glucose levels, the transmitter further configured to transmit signals

corresponding to the detected one or more glucose levels, and a receiver operatively coupled to the transmitter configured to receive transmitted signals corresponding to the detected one or more glucose levels, wherein the transmitter is configured to transmit a current data point and at least one previous data point, said current data point and said at least one previous data point corresponding to the detected one or more glucose levels.

As can be seen, the subject matter of the now cancelled dependent claim 6 is incorporated into claim 1. Contrary to the Examiner's assertions, the Ward reference does not disclose or otherwise suggest the combination set forth in claim 1 of the present application, nor does the Ward reference disclose or otherwise suggest the claimed combination set forth in claim 21.

More specifically, the Examiner refers to col.7, lines 41-63 of the Ward reference in asserting that Ward discloses "wherein the transmitter is configured to transmit a current data point and at least one previous data point, said current data point and said at least one previous data point corresponding to the detected one or more glucose levels". On the contrary, as understood, the portion of Ward relied upon by the Examiner discloses:

Externally, radio signals from transmitter 130, indicative of glucose concentrations in the patient's blood, are transmitted to receiver 134. Receiver 134 may be connected to monitor 136 for data monitoring. The same receiver computer or another computer 138 may be used to analyze the raw data and generate glucose concentration information. A printer 140 connected to computer 138 generates hard copies of analyzed data.

The concept of including multiple electrode pairs within a single sensor can be extended to an embodiment where separate sensors are implanted and commonly linked to a single electrometer as shown in FIG. 8. For example, eight implantable sensors 150 can be implanted in a patient and linked to a single electrometer 152 and transmitter (not shown). Transmitted signals are received by data acquisition adaptor 154 and acquisition computer 156. By increasing the number of sensors the overall precision, accuracy and longevity of the system can be greatly enhanced. If one or more anodes (or sensors) fails, the others still provide sufficient data sensing capacity so that the entire unit continues to perform satisfactorily. Various algorithms or averaging protocols can be used to process the multiple data streams.

See Ward, Col. 7, lines 41-63.

In addition, as understood, the cited portion of the Shulman reference to which the Examiner relies fails to anticipate or render obvious the claimed combinations set forth in pending independent claims 1 and 21.

For example, column 5, lines 42-55 of the Shulman reference relied upon by the Examiner discloses performing integrity tests and transmitting the results of the integrity tests to the controller 16, where the controller analyzes such results and/or makes the results available (e.g., through an appropriate telecommunicative link, such as an indicative, magnetic, rf, or optical link) to an external or other device (such as an external programmer) adapted to display or communicate the test results to the patient, medical personnel, or others who are monitoring the test data. See Shulman, col.5, lines 42-55.

Indeed, as understood, neither Ward nor Shulman discloses or otherwise suggests, among others, the claimed combination set forth in claim 1 including, among others, the transmitter is configured to transmit three data points per minute to the receiver, said three data points corresponding to the detected one or more glucose levels, and further, neither Ward nor Shulman discloses or otherwise suggests, among others, the claimed combination as set forth in claim 21 including, among others, wherein the transmitter is configured to transmit a current data point and at least one previous data point, said current data point and said at least one previous data point corresponding to the detected one or more glucose levels.

Accordingly, Applicants traverse the Examiner's rejections and respectfully submit that all pending claims are allowable.

Respectfully submitted,

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